

AMENDED IN SENATE JUNE 23, 2004

AMENDED IN SENATE JUNE 8, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2628

**Introduced by Assembly Member Pavley
(Principal coauthor: Assembly Member Nakano)
(Coauthors: Assembly Members Chavez, Frommer, Hancock,
Harman, Lieber, Levine, Longville, Matthews, and Nation)
(Coauthor: ~~Senator Denham~~)**

February 20, 2004

An act to amend Section 5205.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2628, as amended, Pavley. Vehicles: preferential lanes.

(1) Existing law permits the use of exclusive or preferential use of highway lanes or highway access ramps by super ultra-low emission vehicles (SULEV), that meet the federal ILEV emission standard, and that have displayed a distinctive decal, label, or other identifier issued by the Department of Motor Vehicles.

Existing law requires, if the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under that commission's jurisdiction to any vehicle pursuant to law, that commission grant the same toll-free and reduced-rate passage to vehicles displaying a valid ULEV or SULEV identifier issued pursuant to the above.

This bill would include a vehicle that was produced during the 2004 model year or earlier that meets California's ultra-low emission vehicle (ULEV) and *the* federal ILEV emission standards, a hybrid vehicle *or an alternative fuel vehicle* that meets California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions and has a 45 miles per gallon or greater fuel economy highway rating, and a hybrid vehicle that was produced during the 2004 model year or earlier that has a 45 miles per gallon or greater fuel economy highway rating and meets California's ultra-low emission vehicle (ULEV), super ultra-low emission vehicle (SULEV), or partial zero-emission vehicle (PZEV) standards for exhaust emissions, within the scope of vehicles permitted to be issued a decal, label, or other identifier to use the exclusive or preferential highway lanes or highway access ramps and toll-free and reduced-rate passage on specified bridges. To the extent that this would increase the level of service of the commission, the bill would impose a state-mandated local program.

The bill would not allow a hybrid vehicle that meets the AT PZEV standards, except as specified, or a described hybrid vehicle, to be issued a decal, label, or other identifier unless and until the federal government acts to approve the use of high occupancy vehicle lanes by those vehicles regardless of the number of occupants.

The bill would prohibit the Department of Motor Vehicles from issuing more than 75,000 decals, labels, or other identifiers. The bill would require the Department of Motor Vehicles to stop issuing those decals, labels, or other identifiers, if the Department of Transportation makes a specified determination after at least 50,000 of those decals, labels, and identifiers are issued.

(2) Existing law authorizes the Governor to remove individual high-occupancy vehicle lanes, or a portion of those lanes, during periods of peak congestion from the ILEV and AT PZEV access after certain findings are made by the Department of Transportation.

This bill would ~~grant~~ *require* the Department of Transportation ~~that authority to undertake that duty~~ rather than *authorizing* the Governor *to undertake that duty*.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide



and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5205.5 of the Vehicle Code is amended
2 to read:

3 5205.5. (a) For the purposes of implementing Section
4 21655.9, the department shall make available for issuance, for a
5 fee determined by the department to be sufficient to reimburse the
6 department for actual costs incurred pursuant to this section,
7 distinctive decals, labels, and other identifiers that clearly
8 distinguish the following vehicles from other vehicles:

9 (1) A vehicle that meets California's super ultra-low emission
10 vehicle (SULEV) standard, ~~or a vehicle that was produced during~~
11 ~~the 2004 model year or earlier that meets California's ultra-low~~
12 ~~emission vehicle (ULEV) standard, for exhaust emissions and the~~
13 ~~vehicle (SULEV) standard for exhaust emissions and the federal~~
14 ~~inherently low-emission vehicle (ILEV) evaporative emission~~
15 ~~standard, as defined in Part 88 (commencing with Section~~
16 ~~88.101-94) of Title 40 of the Code of Federal Regulations.~~

17 (2) *A vehicle that was produced during the 2004 model year or*
18 *earlier and meets California ultra-low emission vehicle (ULEV)*
19 *standard for exhaust emissions and the federal ILEV standard.*

20 (3) A hybrid vehicle *or an alternative fuel vehicle* that meets
21 California's advanced technology partial zero-emission vehicle
22 (AT PZEV) standard for criteria pollutant emissions and has a 45
23 miles per gallon or greater fuel economy highway rating.

24 ~~(3)~~
25 (4) A hybrid vehicle that was produced during the 2004 model
26 year or earlier and has a 45 miles per gallon or greater fuel
27 economy highway rating, and meets California's ultra-low
28 emission vehicle (ULEV), super ultra-low emission vehicle

1 (SULEV), or partial zero-emission vehicle (PZEV) standards for
2 exhaust emissions.

3 (b) Neither an owner of a hybrid vehicle that meets the AT
4 PZEV standard, with the exception of a vehicle that meets the
5 federal ILEV standard, nor an owner of a hybrid vehicle described
6 in paragraph ~~(3)~~ (4) of subdivision (a), is entitled to a decal, label,
7 or other identifier pursuant to this section unless, and until, the
8 federal government acts to approve the use of high-occupancy
9 vehicle lanes by vehicles of the types identified in paragraph ~~2 or~~
10 ~~3~~ (3) or (4) of subdivision (a), regardless of the number of
11 occupants.

12 (c) The department shall include a summary of the provisions
13 of this section on each motor vehicle registration renewal notice,
14 or on a separate insert, if space is available and the summary can
15 be included without incurring additional printing or postage costs.

16 (d) The Department of Transportation ~~may~~ shall remove
17 individual high-occupancy vehicle (HOV) lanes, or portions of
18 those lanes, during periods of peak congestion from the access
19 provisions provided in subdivision (a), following a finding by the
20 Department of Transportation as follows:

21 (1) The lane, or portion thereof, exceeds a level of service C,
22 as discussed in subdivision (b) of Section 65089 of the
23 Government Code.

24 (2) The operation or projected operation of the vehicles
25 described in subdivision (a) in these lanes, or portions thereof, will
26 significantly increase congestion.

27 The finding also shall demonstrate the infeasibility of
28 alleviating the congestion by other means, including, but not
29 limited to, reducing the use of the lane by noneligible vehicles, or
30 further increasing vehicle occupancy.

31 (e) For purposes of subdivision (a), the Department of the
32 California Highway Patrol shall design and specify the placement
33 of the decal, label, or other identifier on the vehicle. Each decal,
34 label, or other identifier issued for a vehicle shall display a unique
35 number, which number shall be printed on, or affixed to, the
36 vehicle registration.

37 (f) (1) For purposes of subdivision (a), the department shall
38 issue no more than 75,000 distinctive decals, labels, or other
39 identifiers that clearly distinguish the vehicles specified in
40 paragraphs (1) to ~~(3)~~ (4), inclusive, of subdivision (a). If the

1 Department of Transportation determines, after issuing at least
2 50,000 distinctive decals, labels, or other identifiers that clearly
3 distinguish the vehicles specified in paragraphs (1) to ~~(3)~~ (4),
4 inclusive, of subdivision (a), that significant high-occupancy
5 vehicle lane breakdown has occurred throughout the state, the
6 department shall stop issuing those decals, labels, and other
7 identifiers.

8 (2) In making a determination that significant high-occupancy
9 vehicle lane breakdown has occurred, the Department of
10 Transportation shall consider the following factors in the HOV
11 lane:

12 (A) Reduction in level of service.

13 (B) Sustained stop-and-go conditions.

14 (C) Slower than average speed than the adjacent mixed flow
15 lanes.

16 (D) Consistent increase in travel time.

17 (g) If the Metropolitan Transportation Commission, serving as
18 the Bay Area Toll Authority, grants toll-free and reduced-rate
19 passage on toll bridges under its jurisdiction to any vehicle
20 pursuant to Section 30102.5 of the Streets and Highways Code, it
21 shall also grant the same toll-free and reduced-rate passage to
22 vehicles displaying a valid identifier issued by the department
23 pursuant to subdivision (a).

24 (h) This section shall remain in effect only until January 1,
25 2008, and as of that date is repealed, unless a later enacted statute,
26 that is enacted before January 1, 2008, deletes or extends that date.

27 SEC. 2. Notwithstanding Section 17610 of the Government
28 Code, if the Commission on State Mandates determines that this
29 act contains costs mandated by the state, reimbursement to local
30 agencies and school districts for those costs shall be made pursuant
31 to Part 7 (commencing with Section 17500) of Division 4 of Title
32 2 of the Government Code. If the statewide cost of the claim for
33 reimbursement does not exceed one million dollars (\$1,000,000),
34 reimbursement shall be made from the State Mandates Claims
35 Fund.